

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

**FILED**  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
MAR - 6 2006

KERRY FREUDENBERG, §  
Individually and as Next Friend of §  
Karli Freudenberg, and §  
MARY FREUDENBERG, §  
Individually and as Next Friend of §  
Karli Freudenberg, §

Plaintiffs, §

v. §

NOBEL LEARNING COMMUNITIES, §  
INC., §

Defendant. §

DAVID J. MALAND, CLERK  
BY  
DEPUTY \_\_\_\_\_

CIVIL ACTION NO. 4:06CV94

JURY

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**COMPLAINT AND DEMAND FOR TRIAL BY JURY**

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Kerry Freudenberg, individually and as “next friend” of Karli Freudenberg, and Mary Freudenberg, individually and as “next friend” of Karli Freudenberg, (“Plaintiffs”) respectfully submit this Complaint, commencing a civil action against Nobel Learning Communities, Inc. (“Defendant”), and stating as follows.

**THE PARTIES**

1. Plaintiff Kerry Freudenberg is an individual who resides in Collin County, Texas.
2. Plaintiff Mary Freudenberg is an individual who resides in Collin County, Texas.

3. Defendant Nobel Learning Communities, Inc. is a corporation organized under the laws of Delaware and having its principal place of business in Pennsylvania. The registered agent of Nobel Learning Communities, Inc. in the State of Texas is CT Corporation System, 350 North St. Paul Street, Dallas, Texas 75201.

#### JURISDICTION

4. The Court has original jurisdiction over this civil action because the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and the action is between citizens of different states. *See* 28 U.S.C. § 1332(a).

#### CAUSE OF ACTION<sup>1</sup>

5. Karli Freudenberg is a one-year-old girl. Plaintiff Kerry Freudenberg is her father, and Plaintiff Mary Freudenberg is her mother.

6. Plaintiffs enrolled Karli at the Merryhill School of Frisco, a preschool and day-care center located in Collin County, Texas (the “Merryhill School”).

7. On or about November 3, 2005, while Karli Freudenberg was at the Merryhill School, and under the care and supervision of its employees, scalding water spilled on her and she was badly burned. At the time, Karli was only eleven months old.

8. When Karli Freudenberg was burned at the Merryhill School, it was owned and operated by Defendant Nobel Learning Communities, Inc.

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<sup>1</sup> This complaint does not set forth every fact on which Plaintiffs’ claims are based. It is meant only to be “a short and plain statement of the claim[s] showing that [Plaintiffs are] entitled to relief,” as required by Federal Rule of Civil Procedure 8(a).

9. As a result of the burns received by Karli Freudenberg at the Merryhill School, she sustained very painful, disfiguring, and traumatic injuries, requiring her to spend about two weeks in the hospital and thereafter to undergo painful and traumatic treatment and therapy. These injuries caused Plaintiffs to sustain compensable damages in amounts greatly exceeding \$75,000.

10. The injuries sustained by Karli Freudenberg were directly and proximately caused by the negligence of Defendant Nobel Learning Communities, Inc. and its employees. Based on the doctrine of *respondeat superior*, Defendant Nobel Learning Communities, Inc. is liable for the negligence of its employees. In addition, Defendant Nobel Learning Communities, Inc. is liable for its negligence in the hiring and supervision of its employees.

11. The negligence of Defendant Nobel Learning Communities, Inc. and its employees was negligence *per se*. The Texas Department of Family and Protective Services (the "TDFPS") found that the Merryhill School violated a safety regulation that was promulgated to prevent injuries of the sort sustained by Karli Freudenberg. The TDFPS is an agency of the State of Texas and is authorized to investigate incidents such as that described here and to make findings as to compliance with the applicable safety regulations.

12. The negligence of Defendant Nobel Learning Communities, Inc. and its employees was "gross negligence" under TEX. CIV. PRAC. & REM. CODE § 41.001(11).

13. Defendant knowingly committed the felony known as "Injury to a Child" under TEX. PEN. CODE § 22.04, so the statutory limitations on exemplary damages are inapplicable.

#### DEMAND FOR TRIAL BY JURY

Plaintiffs hereby demand trial by jury.

### PRAYER FOR RELIEF

Wherefore, Plaintiffs are entitled to, and hereby request, a judgment against Defendant Nobel Learning Communities, Inc. in the amount of six million, five hundred thousand dollars (\$6,500,000), or such other amount as may be appropriate based on the decision of the trier of fact, considering:

- a. all actual damages recoverable under the applicable law (including but not limited to compensatory damages for past and future pain and suffering, emotional distress, mental anguish, loss of society and comfort, medical expenses, loss of income, and loss of earning capacity), in an amount to be determined by the trier of fact in accordance with the applicable law;
- b. prejudgment interest on all actual damages at the highest rate authorized by law, accruing from the earliest date authorized by law;
- c. exemplary damages in an amount to be determined by the trier of fact in accordance with the applicable law; and
- d. all costs and expenses that are recoverable under the applicable law.

Plaintiffs further request that the judgment include an award of postjudgment interest on all monetary relief at the highest rate authorized by law, accruing from the date of the judgment until paid, all writs and processes necessary to collect the judgment, and all other and further relief to which Plaintiffs are entitled.

DATED: March 3, 2006.

Respectfully submitted,



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